

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

ANDREW MARCH,

Plaintiff,

vs.

JANET T. MILLS, et al.,

Defendants

Civil No. 15-515-NT

**ANSWER TO FIRST AMENDED COMPLAINT WITH AFFIRMATIVE
DEFENSES AND JURY DEMAND (CITY OF PORTLAND, WILLIAM PREIS,
JASON NADEAU AND GRAHAM HULTS)**

Defendants City of Portland, William Preis, Jason Nadeau and Graham Hults, by and through counsel, hereby respond to the Plaintiff's First Amended Complaint as follows:

INTRODUCTION

1. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

2. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

3. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

4. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

5. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

6. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

JURISDICTION AND VENUE

7. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

8. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

9. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required.

Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

PLAINTIFF

10. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

DEFENDANTS

11. The Defendants admit the allegations contained in the first sentence of this paragraph of Plaintiff's First Amended Complaint. The remaining allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

12. The Defendants admit the allegations contained in the first sentence of this paragraph of Plaintiff's First Amended Complaint. The remaining allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

13. The Defendants admit that Portland Police officers enforce certain laws in the State of Maine. The Defendants are without sufficient information or knowledge to

form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

14. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

15. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

16. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

17. The Defendants admits that, as a general proposition, the City of Portland provides training to its police officers, including those named as Defendants. The remaining allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

18. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

19. The Defendants admit the allegations contained in the first sentence of this paragraph of Plaintiff's First Amended Complaint. The remaining allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

20. The Defendants admit the allegations contained in the first sentence of this paragraph of Plaintiff's First Amended Complaint. The remaining allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

21. The Defendants admit the allegations contained in the first sentence of this paragraph of Plaintiff's First Amended Complaint. The remaining allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

22. The Defendants admit the allegations contained in the first sentence of this paragraph of Plaintiff's First Amended Complaint. The remaining allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute

assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

STATEMENT OF FACTS

23. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

24. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

25. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

26. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

27. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

28. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

29. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

30. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

31. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

32. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

33. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

34. The Defendants admit that Planned Parenthood provides health services, such that the structure it occupies is a building where persons receive health services. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

35. The Defendants admit that Planned Parenthood has an office on Congress Street in Portland, Maine. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

36. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

37. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

38. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

39. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

40. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

41. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

42. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

43. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

44. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

45. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

46. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

47. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

48. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

49. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

50. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

51. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

52. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

53. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

54. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

55. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

56. The Defendants admit that the Plaintiff was asked to lower the volume of his voice so that it would not interfere with the safe and effective delivery of health care services at Planned Parenthood. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

57. The Defendants admit that the Portland Police Department received a report of persons making noise that could be heard within Planned Parenthood that was interfering with the safe and effective delivery of health care services therein. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

58. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

59. The Defendants admit that the Plaintiff was asked to lower the volume of his voice so that it would not interfere with the safe and effective delivery of health care services at Planned Parenthood. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

60. The Defendants admit that the Plaintiff attempted to discuss the provisions of the pertinent civil rights law with the officers. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

61. The Defendants admit that the Plaintiff was asked to lower the volume of his voice so that it would not interfere with the safe and effective delivery of health care services at Planned Parenthood. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

62. The Defendants admit that the Plaintiff attempted to discuss the provisions of the pertinent civil rights law with the officers. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

63. The Defendants admit that the Plaintiff continued to discuss the provisions of the pertinent civil rights law with the officers. The Defendants further admit that the Plaintiff made certain conjectures. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

64. The Defendants admit that the one or more officers noted the Plaintiff's conjectures. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

65. The Defendants admit that the Plaintiff was provided with a copy of the pertinent civil rights statute. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

66. The Defendants admit that the Plaintiff asked questions concerning the pertinent civil rights statute. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same..

67. The Defendants admit that the officers did not attempt to interpret the pertinent civil rights law for the Plaintiff. The Defendants further admit that the Plaintiff stated that he had lawyers and that Defendant Krier noted that if the Plaintiff had lawyers he did not need the Defendants' assistance in interpreting the pertinent civil rights law. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

68. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

69. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

70. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

71. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

72. The Defendants admit that the Plaintiff was asked by Defendant Preis to lower the volume of his voice so that it would not interfere with the safe and effective

delivery of health care services at Planned Parenthood. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

73. The Defendants admit the Plaintiff posed questions concerning a protest. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

74. The Defendants admit that the Plaintiff was advised that the pertinent civil rights law protects persons from noises made outside of a building where health care services are provided for the purpose of interfering with the safe and effective delivery of those health care services. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

75. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

76. The Defendants admit that the Plaintiff was advised that the pertinent civil rights law protects persons from noises made outside of a building where health care services are provided for the purpose of interfering with the safe and effective delivery of those health care services. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

77. The Defendants admit the Plaintiff posed questions concerning the pertinent civil rights law. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

78. The Defendants admit that the Plaintiff was advised that the pertinent civil rights law protects persons from noises made outside of a building where health care services are provided for the purpose of interfering with the safe and effective delivery of those health care services. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

79. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

80. The Defendants admit that the Plaintiff was advised that the pertinent civil rights law protects persons from noises made outside of a building where health care services are provided for the purpose of interfering with the safe and effective delivery of those health care services. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

81. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

82. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

83. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

84. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

85. The Defendants admit that the Portland Police Department received a report of persons making noise that could be heard within Planned Parenthood that was interfering with the safe and effective delivery of health care services therein, and that the Plaintiff was advised of that report. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

86. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

87. The Defendants admit that the Plaintiff was or had been advised that the pertinent civil rights law protects persons from noises made outside of a building where health care services are provided for the purpose of interfering with the safe and effective delivery of those health care services. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

88. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

89. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

90. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

91. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

92. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

93. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

94. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

95. The Defendants admit that public sidewalks are used for a variety of purposes. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

96. The Defendants admit that Congress Street has been used for parades. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

97. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

98. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

99. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

100. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

101. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

102. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

103. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

104. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

105. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

106. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

107. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

108. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

109. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

110. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

111. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

112. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required.

Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

113. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

114. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

115. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

**FIRST CAUSE OF ACTION – 42 U.S.C. § 1983
(Free Speech – Viewpoint Discrimination)**

116. The Defendants repeat their responses to the preceding paragraphs of Plaintiff's First Amended Complaint.

117. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

118. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

119. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

120. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

121. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

122. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

123. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

124. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

125. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

126. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

127. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

**SECOND CAUSE OF ACTION – 42 U.S.C. § 1983
(Free Speech – Time, Place, Manner)**

128. The Defendants repeat their responses to the preceding paragraphs of Plaintiff's First Amended Complaint.

129. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

130. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

131. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

132. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

133. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

134. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

135. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

136. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

137. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

138. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

139. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

140. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

**THIRD CAUSE OF ACTION – 42 U.S.C. § 1983
(Free Speech – Prior Restraint)**

141. The Defendants repeat their responses to the preceding paragraphs of Plaintiff's First Amended Complaint.

142. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

143. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

144. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

145. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

146. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

147. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

148. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

149. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

150. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

**FOURTH CAUSE OF ACTION – 42 U.S.C. § 1983
(Equal Protection – Fourteenth Amendment)**

151. The Defendants repeat their responses to the preceding paragraphs of Plaintiff's First Amended Complaint.

152. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

153. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

154. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

155. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

156. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

157. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

**FIFTH CAUSE OF ACTION – 42 U.S.C. § 1983
(Due Process -- Vagueness)**

158. The Defendants repeat their responses to the preceding paragraphs of Plaintiff's First Amended Complaint.

159. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

160. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

161. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

162. The allegations contained in this paragraph of the Plaintiff's First Amended Complaint constitute assertions of law to which no response is required. Alternatively, the Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

163. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

164. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

165. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

166. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

167. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

168. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

169. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

170. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

171. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

172. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

173. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

174. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

175. The Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's First Amended Complaint and, accordingly, deny same.

176. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

177. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

178. The Defendants deny the allegations contained in this paragraph of Plaintiff's First Amended Complaint.

AFFIRMATIVE DEFENSES

1. The Defendants have at all times acted in good faith and without knowledge that their conduct violated any clearly established constitutional or statutory rights of the Plaintiff.

2. The Defendants' conduct did not violate any clearly established constitutional or statutory rights of the Plaintiff.

3. No reasonable person would have known that the Defendants' conduct violated any clearly established constitutional or statutory rights of the Plaintiff.

4. To the extent that the Plaintiff's First Amended Complaint seeks to impose liability on the Defendants in their representative capacity, the Complaint fails to state a claim upon which relief may be granted.

5. The Plaintiff's claims are barred for the reason that the Defendants' actions were not taken pursuant to an unconstitutional policy, custom or practice.

6. The Defendants are immune from suit pursuant to qualified immunity.

7. The Plaintiff's claims, in whole or in part, are barred by the doctrine of immunity.

8. The Plaintiff's own conduct was the sole or a contributing cause of any injuries the Plaintiff may have sustained.

9. The Plaintiff's First Amended Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

10. The Plaintiff's claims are barred for the reason that the Defendants are not liable under a theory of *respondeat superior* for the actions of their agents.

11. The Plaintiff's claims are barred for the reason that the Defendants' actions do not constitute deliberate indifference or conduct which is shocking to the conscience.

12. The Plaintiff's claims are barred for the reason that the allegations in the Complaint allege simple negligence and the conduct complained of is not the type contemplated under 42 U.S.C. § 1983.

13. The Defendants reserve the right to demonstrate that the Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

14. To the extent that the Plaintiff seeks injunctive or declaratory relief, the Plaintiff has no standing.

15. The Plaintiff, in whole or in part, fails to allege justiciable claims.

16. The Plaintiff has adequate remedies under State law, and therefore no action lies under 42 U.S.C. §1983 in the Maine Constitution or the United States Constitution.

17. The Defendants reserve the right to demonstrate that the Plaintiff has failed to mitigate damages.

JURY DEMAND

Pursuant to Local Rule 38 and Federal Rule of Civil Procedure 38(b), the Defendants request a trial by jury on all claims and issues properly tried to a jury.

WHEREFORE, Defendants City of Portland, William Preis, Jason Nadeau and Graham Hults demand judgment in their favor with regard to all claims of the Plaintiff's First Amended Complaint, including an award of costs and attorneys' fees, if appropriate, and such other relief as the Court deems just.

Dated at Portland, Maine this 9th day of February, 2016.

Attorneys for Defendants City of Portland,
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Donald Krier
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By: /s/ John J. Wall, III
John J. Wall, III

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2016, I electronically filed **Answer to First Amended Complaint with Affirmative Defenses and Jury Demand (City of Portland, William Preis, Jason Nadeau and Graham Hults)** using the CM/ECF system, which will provide notice to me and the following other counsel of record: mail@whitinglawfirm.com; emersino@thomasmore.org; koliveri@thomasmore.org; Christopher.C.Taub@maine.gov.

Dated at Portland, Maine this 9th day of February, 2016.

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By: **/s/ John J. Wall, III**
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